

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Virgil, Jr. & Fannie Mae Hambrick)
Dist. 1, Map 16, Control Map 16, Parcel 49.01,) Franklin County
S.I. 000)
Farm Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$107,100	\$111,900	\$219,000	\$ -
USE	\$ 50,600	\$111,900	\$162,500	\$40,625

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on May 18, 2006 in Winchester, Tennessee. In attendance at the hearing were Virgil Hambrick, the appellant, and Franklin County Property Assessor, Phillip Hayes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 48.5 acre tract located at 1979 UT Farm Road in Tullahoma, Tennessee. Subject property is improved with a residence constructed in 2004, a residence constructed in 1977 and various outbuildings.

The taxpayer contended that the appraisal of subject property should be reduced. In support of this position, the taxpayer argued that the appraisal of subject property doubled between 2003 and 2004. In addition, the taxpayer asserted that the assessor's appraisals of the land and new home are excessive.

The assessor contended that subject property should remain valued at its current appraised value. In support of this position, an appraisal valuing the older home and 4.47 acres at \$56,000 as of February 23, 2005 was introduced into evidence. In addition, Mr. Hayes noted that the current appraisals of subject land (excluding the two homesites) and the older home are actually lower than the fee appraisal introduced into evidence and the taxpayer's contended land value of \$2,800 per acre.

With respect to the home constructed in 2004, Mr. Hayes testified that the local high school constructs homes like the subject and then sells them at auction. According to Mr. Hayes, the buyer must then pay to move the home, install the foundation, septic system, etc.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Franklin County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that excluding the two homesites valued at \$8,000 each, subject acreage is valued at \$1,959 per acre. The taxpayer indicated on his appeal form he has been offered \$2,800 per acre.

The administrative judge finds that the taxpayer did not introduce any comparable sales into evidence. Moreover, Mr. Hambrick testified that he could not recall what he paid for the house built by the local high school in 2004. The administrative judge finds that even if the cost was \$38,500 for the home and \$2,000 for the porch as indicated on the appeal form, many other costs must be added to that figure as pointed out by Mr. Hayes.

Thus, it cannot even be determined what the taxpayer's actual total cost was for the home, let alone its fair market value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$107,100	\$111,900	\$219,000	\$ -
USE	\$ 50,600	\$111,900	\$162,500	\$40,625

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 24th day of May, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Virgil, Jr. & Fannie Mae Hambrick
Phillip Hayes, Assessor of Property